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**FEB 28 2005**

**To: U.S. Patent and Trademark Office**  
**MS Amendment**

**Facsimile: (703) 872-9306**

**From: Gregory P. Einhorn**

**Date: February 28, 2005**

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**Comments:**

Attorney Docket: 220002066000  
Group Art Unit: 1636  
Examiner: S. Kaushal  
Serial No.: 09/954,571  
Filing Date: September 11, 2001  
Inventor(s): Kenneth CHIEN et al.  
Title: METHODS FOR CARDIAC GENE TRANSFER (AMENDED)

**Papers attached:**

1. Transmittal (1 page)
2. Fee Transmittal (1 page + duplicate)
3. Petition for 1 Month Extension of Time Under 37 CFR 1.136(a) (1 page)
4. Preliminary Amendment and Response to Restriction Requirement (15 pages)

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**SD-246792**

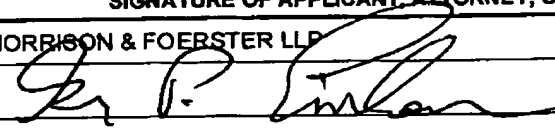
PTO/SB/21 (09-04)


Approved for use through 07/31/2005. OMB 0651-0031  
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<h1 style="text-align: center;">TRANSMITTAL FORM</h1> <p style="text-align: center;">(to be used for all correspondence after initial filing)</p>		Application Number	09/954,571
		Filing Date	September 11, 2001
		First Named Inventor	Kenneth CHIEN
		Art Unit	1636
		Examiner Name	S. Kaushal
Total Number of Pages in This Submission	20	Attorney Docket Number	220002066000

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form (1 page + duplicate) <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply (15 pages) <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request (1 page) <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Fax Cover Sheet (1 page)
Remarks Customer No. 25225		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	MORRISON & FOERSTER LLP		
Signature			
Printed name	Gregory P. Einhorn		
Date	February 28, 2005	Reg. No.	38,440

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facsimile no. (703) 872-9306, on the date shown below.	
Dated: February 28, 2005	Signature:  (Norman Green)

sd-246708

PTO/SB/17 (12/04/02)

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Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). <b>FEE TRANSMITTAL</b> <b>For FY 2005</b>		<b>Complete if Known</b> Application Number 09/954,571 Filing Date September 11, 2001 First Named Inventor Kenneth CHIEN Examiner Name S. Kaushal Art Unit 1636 Attorney Docket No. 220002066000	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27			
<b>TOTAL AMOUNT OF PAYMENT</b> (\$) 210.00			

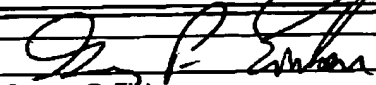
  

<b>METHOD OF PAYMENT (check all that apply)</b>	
<input type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> None <input type="checkbox"/> Other (please identify): _____	
<input checked="" type="checkbox"/> Deposit Account    Deposit Account Number: 03-1952    Deposit Account Name: Morrison & Foerster LLP	
For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)	
<input checked="" type="checkbox"/> Charge fee(s) indicated below <input type="checkbox"/> Charge fee(s) Indicated below, except for the filing fee	
<input checked="" type="checkbox"/> Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17 <input checked="" type="checkbox"/> Credit any overpayments	

<b>FEE CALCULATION</b>							
<b>1. BASIC FILING, SEARCH, AND EXAMINATION FEES</b>							
	<b>FILING FEES</b>		<b>SEARCH FEES</b>		<b>EXAMINATION FEES</b>		
		<u>Small Entity</u>		<u>Small Entity</u>		<u>Small Entity</u>	
<u>Application Type</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fees Paid (\$)</u>
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	
<b>2. EXCESS CLAIM FEES</b>							
							<u>Small Entity</u>
							<u>Fee (\$)</u> <u>Fee (\$)</u>
Each claim over 20 (including Reissues)							50    25
Each independent claim over 3 (including Reissues)							200    100
Multiple dependent claims							360    180
<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Multiple Dependent Claims</u>			
59	- 53 = 6	x 25.00 =	150.00	<u>Fee (\$)</u> <u>Fee Paid (\$)</u>			
<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>				
3	- 6 =	x	=				
<b>3. APPLICATION SIZE FEE</b>							
If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).							
<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>			
- 100 =	/ 50	(round up to a whole number) x	=				
							<u>Fees Paid (\$)</u>
<b>4. OTHER FEE(S)</b>							
Non-English Specification, \$130 fee (no small entity discount)							
Other (e.g., late filing surcharge): 2251 Extension for response within first month							60.00

<b>SUBMITTED BY</b>			
Signature		Registration No. (Attorney/Agent)	38,440
Name (Print/Type)	Gregory P. Einhorn	Telephone	(858) 720-5133
		Date	February 28, 2005

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Amendment, the Patent and Trademark Office, facsimile no. (703) 872-9306, on  
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Dated: February 28, 2005

Signature: 

(Norman Green)

Docket No.: 220002066000 /

UC 94-161-9

(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Kenneth CHIEN et al.

Application No.: 09/954,571

Confirmation No.: 7236

Filed: September 11, 2001

Art Unit: 1636

For: METHODS FOR CARDIAC GENE  
TRANSFER (AMENDED)

Examiner: Sumesh Kaushal, Ph.D.

**PRELIMINARY AMENDMENT AND  
RESPONSE TO RESTRICTION REQUIREMENT**

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**INTRODUCTORY COMMENTS**

Responsive to the second Election/Restriction Requirement mailed December 28, 2004, Applicants respectfully request entry of the amendment and consideration of the remarks set forth herein. A response to the Office Action was originally due January 28, 2005. Applicants submit herewith a Petition for Extension of Time to extend the time to reply to this Office Action for one month to February 28, 2005. Accordingly, this Response is timely filed.

**Amendment to the claims** are reflected in the listing of claims which begin on page 2 of this paper.

**Remarks/Arguments** begin on page 10 of this paper.

The following documents are enclosed herewith:

- Transmittal letter, Fee Transmittal, Petition to Extend Time, Facsimile cover sheet.

sd-246709